

## Attachment A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

FILED

MAY 24 2021

**U.S. DISTRICT COURT-WVND  
CLARKSBURG, WV 26301**

**Petition for Habeas Corpus  
Pursuant to 28 U.S.C. § 2241**

Civil Action No. 1:21CV68  
(to be assigned by Clerk) TSV

TSK  
MJA  
WMS

<u>CLARENCE TONEY</u>	,
(Full name under which you were convicted, prison number, place of confinement, and full mailing address)	
Petitioner,	
vs.	
<u>PAUL ADAMS, Warden</u>	,
(Name of Warden or other authorized person where you are incarcerated)	
Respondent.	

### **Important notes to read before completing this form:**

★ Please read the entire petition **before** filling it out. Answer **only** those questions which pertain to your claim(s).

1. This petition concerns (check the appropriate box):

- a conviction
- a sentence
- jail or prison conditions
- prison disciplinary proceedings
- a parole problem
- other, state briefly: FBOP's Failure to execute a federal  
detainer and allowing 27 years to elapse before seeking  
execution of the sentence.

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2. Are you represented by counsel?  Yes  No

If you answered yes, list your counsel's name and address: \_\_\_\_\_

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3. List the name and location of the court which imposed your sentence:

United States District Court, District of New Jersey

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4. List the case number, if known: 83-17-01

5. List the nature of the offense for which the sentence was imposed:

Armed Bank Robbery

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6. List the date each sentence was imposed and the terms of the sentence:

June 3, 1983 and 25-years of imprisonment with a period  
supervised release

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7. What was your plea to each count? (Check one)

Guilty  
 Not Guilty  
 Nolo Contendere

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8. If you were found guilty after a plea of not guilty, how was that finding made?

A jury  
 A Judge without a jury  
 A Magistrate Judge without a jury

9. Did you appeal from the judgment of conviction or imposition of the sentence?

Yes       No

10. If you did appeal, give the following information for each appeal:

A. Name of Court: Third Circuit Court of Appeals  
B. Result: AFFIRMED  
C. Date of Result: March 5, 1984  
D. Grounds raised (List each one): Information not available

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Note: if you filed an appeal in more than one court, attach an additional sheet of paper of the same size and give all of the information requested in Question 10, A through D.

11. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? This is called a post-conviction pleading.

Yes       No

If your answer was yes, complete the following sections:

A. First post-conviction proceeding:

1. Name of Court: \_\_\_\_\_

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2. Nature of Proceeding: \_\_\_\_\_
3. Grounds Raised: \_\_\_\_\_
4. Did you receive an evidentiary hearing ?  Yes  No
5. Result: \_\_\_\_\_
6. Date of Result: \_\_\_\_\_

B. Second post-conviction proceeding:

1. Name of Court: \_\_\_\_\_
2. Nature of Proceeding: \_\_\_\_\_
3. Grounds Raised: \_\_\_\_\_
4. Did you receive an evidentiary hearing ?  Yes  No
5. Result: \_\_\_\_\_
6. Date of Result: \_\_\_\_\_

C. Did you appeal to the result of the post conviction proceeding(s) to the highest court having jurisdiction?

1. First proceeding:  Yes  No Result: \_\_\_\_\_
2. Second proceeding:  Yes  No Result: \_\_\_\_\_

D. If you did not appeal the adverse result of the post-conviction proceeding(s), explain briefly why not: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. For your information, the following is a list of the most frequently raised grounds for relief in applications for habeas corpus pursuant to 28 U.S.C. §2241. You may raise any grounds which you may have other than those listed. However, in this application, you should raise all available grounds on which you base your petition. **Do not check** any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. **The petition will be returned to you if you merely check one or more of the grounds:**

A. U.S. Parole Commission unlawfully revoked my parole.  
B. Federal Bureau of Prisons unlawfully computed my sentence.

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- C. Federal Bureau of Prisons unlawfully denied me credit for time served in state or federal prison.
- D. Federal Bureau of Prisons or State prison system unlawfully revoked my good time credits.
- E. There is an unlawful detainer lodged against me.
- F. I am a citizen and resident of a foreign country and I am in custody for an act which I had a right to commit under the laws of my country.
- G. The act for which I was convicted is no longer considered to be a crime, and I cannot raise this issue in a §2254 petition or a §2255 motion.

**CAUTION: if you fail to set forth all of the grounds in this petition at this time, you may be barred from presenting additional grounds at a later date.**

State clearly every ground on which you are seeking relief. Summarize briefly the facts supporting each ground. If necessary, attach a total of five (5) typed or ten (10) neatly printed pages maximum for all grounds and all attachments.

**A. Ground one:**

Whether Federal Authorities' decision to wait twenty-seven years before seeking to enforce a federal detainer lodged against Mr. Toney in 1983 was arbitrary, capricious, and whimsical resulting in the sort of delayed incarceration that "shocks the conscience" and deprived Mr. Toney of his Constitutional right to Due Process of Law.

Supporting facts: tell your story briefly without citing cases or law. You are cautioned that you must state facts, not conclusion, in support of your grounds. A "rule of thumb" to follow is this: who did exactly what to violate your rights at what time and place).

The FBOP allowed 27 years to elapse before seeking to enforce a federal detainer lodged against Mr. Toney with the Pennsylvania Department of Corrections in 1983. See attached Memorandum of Law for specific details regarding this claim.

**B. Ground two:**

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Supporting facts:

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C. Ground three:

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Supporting facts:

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D. Ground four:

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Supporting facts:

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13. Were all of the above grounds presented to another court, state or federal? If not, state which grounds were not presented. If yes, state the name of the court, date of decision, and the nature of the outcome:

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14. If this petition concerns prison disciplinary proceedings, a parole problem, computation of sentence, or other case under 28 U.S.C. § 2241, answer the following questions:

A. Did you present the facts in relation to your present petition in the prison's internal grievance procedure?

Yes       No

1. If your answer to "A" above was yes, what was the result:

Denial

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2. If your answer to “A” above was no, explain:

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B. If you are a federal prisoner, did you present your claim to the Bureau of Prisons or other federal agency for administrative action?

Yes       No

1. If your answer to “B” above was yes, what was the result:

Denied

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2. If your answer to “B” above was no, explain:

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15. Relief: State here, as briefly as possible, exactly what you want the court to do for you: Immediate release from unlawful custody

1. Make **no** legal arguments.
2. Cite **no** cases or statutes.

Immediate release from unlawful custody

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16. If a previous motion to vacate or modify a prisoner's sentence, pursuant to Section 2255, was not filed, or if such a motion was filed and denied, the reasons why Petitioner's remedy by way of Section 2255 is inadequate or ineffective to test the legality of the detention.

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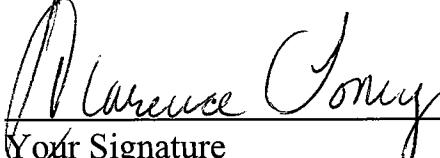
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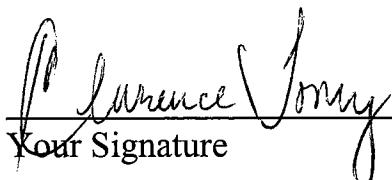
Signed this 18<sup>th</sup> day of May 18<sup>th</sup>, 2021.  
(day) (month) (year)

  
\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state), under penalty of perjury, that the foregoing is true and correct.

Date of Signature: May 18<sup>th</sup> 2021

  
\_\_\_\_\_  
Your Signature

Attachment D

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

CLARENCE TONEY

*Your full name*

v.

Civil Action No.: \_\_\_\_\_

PAUL ADAMS, Warden

*Enter above the full name of respondent in this action*

**Certificate of Service**

I, CLARENCE TONEY (your name here), appearing *pro se*, hereby certify that  
I have served the foregoing Application for  
Writ of Habeas Corpus (title of document  
being sent) upon the respondent by depositing true copies of the same in the United States  
mail, postage prepaid, upon the following counsel of record for the respondent on  
May , 2021 (insert date here):

(List name and address of counsel for respondent)

Not available

  
(sign your name)